

**PROCEEDINGS OF THE BROWN COUNTY**  
**LAND CONSERVATION SUBCOMMITTEE**

Pursuant to Section 18.94 Wis. Stats., a regular & budget meeting of the Brown County Land Conservation Subcommittee was held on Monday, April 24, 2017 at Public Works Department, 2198 Glendale Ave, Howard, WI

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**Present:** Supervisors Norbert Dantine, Dave Kaster, Dave Landwehr, Tom Sieber  
**Excused:** Supervisor Bernie Erickson  
**Vacant:** Citizen Rep  
**Also Present:** County Conservationist Mike Mushinski and other interested parties.

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*\*Audio of the meeting is available by contacting the County Board office (920) 448-4015.*

I. **Call Meeting to Order.**

The meeting was called to order by Chairman Dantine at 5:00 p.m.

II. **Approve/Modify Agenda.**

Motion made by Supervisor Kaster, seconded by Supervisor Sieber to approve. Vote taken. **MOTION CARRIED UNANIMOUSLY**

III. **Approve/Modify Minutes of March 27, 2017.**

Motion made by Supervisor Landwehr, seconded by Supervisor Sieber to approve. Vote taken. **MOTION CARRIED UNANIMOUSLY**

IV. **Discussion of May meeting.**

A brief discussion ensued with regard to location ideas, it was decided to go downtown for May and discuss further at that meeting.

Motion made by Supervisor Sieber, seconded by Supervisor Landwehr to move the May meeting to Room 200, Northern Building, 305 E. Walnut Street. Vote taken. **MOTION CARRIED UNANIMOUSLY**

**Comments from the Public**

1. **Departmental Openings Summary.**

County Conservationist Mike Mushinski informed that the same Agronomist position was still on hold for funding.

Motion made by Supervisor Landwehr, seconded by Supervisor Sieber to receive and place on file. Vote taken. **MOTION CARRIED UNANIMOUSLY**

2. **Budget Status Financial Report for March 2017 - Unaudited.**

Mushinski informed that financially they were starting out the year in good shape.

Motion made by Supervisor Landwehr, seconded by Supervisor Kaster to receive and place on file. Vote taken. **MOTION CARRIED UNANIMOUSLY**

3. **Directors Report:**

Mushinski informed they were anticipating their move from the UW-Extension building to UWGB on May 1-5, 2017. Their office will be shut down the 3<sup>rd</sup> and 4<sup>th</sup> so Technology Services can take down and hook their

service and phones back up.

They had a series of complaints and runoff issues the last few weeks that they handled. He was involved with Corporation Counsel on a couple of them and with Supervisor Clancy on one. There were a few major issues they were dealing with. They had some corporation with landowners and if it continued they will be okay.

**a. Multi Discharge Variance (MDV).**

Handouts provided (attached); Mushinski informed this had been in the works for quite a while with the DNR and EPA, and it came down to the counties. Instead of making upgrades to their facility, this was an avenue for point source discharges to buy into this multi-discharger variance with credits, \$50/lb., allowing them to find more economical solutions. Every 5-years when the permits came available for industries that discharged phosphorus, they could choose this variance. Instead of doing the upgrades and the money going to the DNR, it would be directly paid to the Brown County Land and Water Conservation Department and would be used for non-point work such as their watershed areas or any phosphorus control practices. 35% can go for staff and the remaining for projects. So at the end of this year Brown County will submit a County Participation Form to the DNR. He had heard most point dischargers will elect to have the payment go to the county. Their department was set for implementing but will more than likely have to assign someone to track it, etc.

Mushinski continued that in the State of Wisconsin, paper mills will be the biggest point source discharges of phosphorus. The first estimate he saw was a sizeable chunk of money potentially. It will all depend on what the point sources choose; upgrades, MDV, etc.

Sieber questioned if the per pound was self-regulated. Mushinski stated that on their permit they had a reduction that the DNR was going to set for them. If it was 1,000 lbs., their payment would be 1,000x\$50. The DNR set it and the county got the check.

Landwehr stated that at budget time he would like to see them not put the money into staffing because at some point it was going to go away and they would end up having to find other ways to pay it. Mushinski noted that they had 2-3 years to use the money so it was a short time frame and he would think they would want to put more into projects but use some for staffing.

**b. Conservation Reserve Enhancement Program (CREP).**

A handout was provided, attached. Mushinski informed that Brown County wasn't currently involved in CREP. It started in 2002 and since then that program had lapsed in the county but they were picking it back up. Originally they had \$240,000 bonded and spent about \$120,000. The last 5-7 years they hadn't spent anything; CREP basically stopped. In 2002 the first contracts were signed and were for 15-years so they were coming due again in 2017. Those agreements were still in place, they just hadn't done any new ones in a long time. He got contacted by FSA and USDA saying it would be a value to landowners in the county. So instead of the first 15-year ones coming out, CREP can be used to do another 15-year agreement or perpetual easement.

**Motion made by Supervisor Sieber, seconded by Supervisor Kaster to receive and place on file. Vote taken.  
MOTION CARRIED UNANIMOUSLY**

**Other**

**4. Such Other Matters as Authorized by Law.**

**5. Adjourn.**

**Motion made by Supervisor Landwehr, seconded by Supervisor Sieber to adjourn at 5:14 p.m. Vote Taken.  
MOTION CARRIED UNANIMOUSLY.**



# Multi-discharger Phosphorus Variance



## ELIGIBLE POINT SOURCES:

A point source must meet all of the following to request a MDV:

- Must be an existing facility
- Requires a major facility upgrade to comply with their phosphorus WQBELs

Meets the primary and secondary substantial indicators

- Agrees to reduce its phosphorus load during the variance timeline
- Implements a watershed project to help curb nonpoint source phosphorus pollution

An eligibility quiz is available online to help point sources make this determination.

## ACRONYMS

DNR: Wisconsin Department of Natural Resources

DOA: Wisconsin Department of Administration

EIA: Economic Impact Analysis

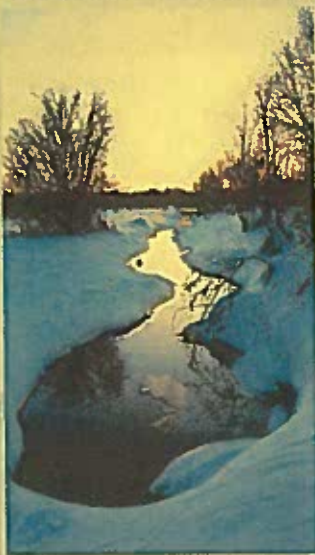
LCD: Land and Water Conservation Department

MDV: Multi-Discharger Variance

WPDES: Wisconsin Pollutant Discharge Elimination System

WQBEL: Water quality-based effluent limit

## What is a multi-discharger variance?



### A MULTIDISCHARGE VARIANCE (MDV) IS...

- A time extension for point sources facing restrictive phosphorus limits to comply with limits
- An opportunity for point sources to make meaningful strides towards water quality improvements in a more economically effective manner
- Approved on a case-by-case basis and implemented in a WPDES permit

### A MDV IS NOT...

- An individual variance pursuant to s. 283.15
- A final compliance option for point sources
- Water quality trading or adaptive management
- Permanent

## What the MDV requires:

A point source is responsible for evaluating its compliance options such as facility upgrades, water quality trading, adaptive management, and, potentially, a phosphorus MDV. If a facility meets the eligibility requirements and requests the MDV, the WPDES permit will, upon approval, be modified or reissued with the following requirements:

1. Reductions of effluent phosphorus: Point sources are required to reduce their phosphorus load each permit term. Interim limitations will be included in the permit based on current effluent quality, opportunities for optimization, and other site-specific considerations.
2. Implement a watershed project: Point sources must implement one of the following watershed project options to help reduce nonpoint source of phosphorus pollution:
  - Enter into an agreement with DNR to implement a project to offset the amount of phosphorus their discharge exceeds the target value.
  - Enter into a DNR-approved agreement with a third party to implement a project to offset the amount of phosphorus their discharge exceeds the target value.
  - Make payments to county LCDs of \$50 per pound times the number of pounds of phosphorus their discharge exceeds the target value.

The approval determination must be re-evaluated each permit reissuance of the MDV project timeline. The legal requirements of the MDV determination as well as general implementation procedures can be found in s. 283.16, Wis. Stat.

## MDV APPROVAL & DURATION

EPA approved the MDV on February 6, 2017, which is effective until February 5, 2027. Permit terms and conditions that reflect the MDV cannot extend beyond the term of the variance expiration date. Several options are available to extend the current MDV approval to encompass the full time period allotted in s. 283.16, Wis. Stat., including:

- Seeking EPA approval on updated MDV packages, and
- Providing a compliance schedule after MDV expiration.

The Department will continue to work with EPA and stakeholders to pursue these options to maximize the duration of the MDV as necessary and appropriate. Section 283.16, Wis. Stat., authorized the DNR to seek MDV approval for up to 3 permit terms.



## ONLINE RESOURCES

- MDV Implementation Guidance
- Informational Webinars
- Application Materials
- County Resources
- Watershed Project Resources
- MDV Package Submitted to EPA
- Local contact information



A grass waterway is an example of an agricultural BMP that can be used as part of a watershed project.

## County Payment Option

It is voluntary for County LCDs to participate in the MDV. County LCDs should submit the "County Participation Form" to the DNR by January 1st of each year they wish to receive funding. At least 65% of MDV funds must be spent to bring farmers and other agricultural sources into compliance with NR 151 agricultural performance standards. The remaining funding may be spent on staffing, innovative projects, monitoring, modeling, demonstrations, etc. If a County chooses to participate, they will agree to:

- Develop a plan to use funds (due 1 year after funds received)
- Use the MDV funds appropriately
- Submit annual reports to the DNR until funds are used

Funds must be targeted to the highest phosphorus loading areas within the participating county. This may or may not be the same watershed the MDV funds were generated in. A "watershed plan" form has been created to help streamline the development and submittal of MDV watershed plans to DNR. Section 3.04 of the MDV Implementation Guidance is also designed to provide instructions to County LCDs on how to develop a successful MDV plan. Visit <http://dnr.wi.gov/>, search "statewide phosphorus variance" for more information.

## Determining Substantial Impacts

A two-step process was used to determine if phosphorus standards compliance has a substantial impact to point source discharges. The purpose of the first step, commonly referred to as the "primary screener", is to determine the phosphorus standards' economic impact on dischargers in each category. The second step, referred to as the "secondary screener", gauges the wider community's socioeconomic well-being and ability to adapt to changes that accompany implementation of phosphorus standards. In order to meet the "substantial determination" test, a facility must meet the primary screener and one or more secondary screeners. Permittees should review Appendices A-G of the MDV Implementation Guidance or the "eligibility quiz" at [dnr.wi.gov](http://dnr.wi.gov), keywords "statewide phosphorus variance" for specific eligibility information:

### Primary Screeners:

- Median household income (municipal WWTFs)
- Estimated compliance costs within the discharge category (Industries)
- Estimated compliance costs within the county (Industries)

### Secondary Screeners:

- Median household income (Industries only)
- Transfer receipts as a share of total personal income
- Jobs per square mile
- Population change
- Net earnings by place of residence
- Job growth
- Capital costs as a share of total wages



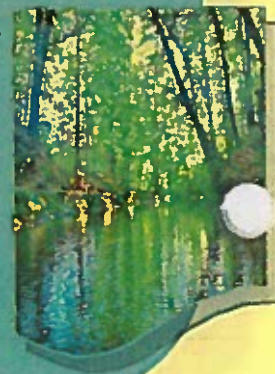
Fact sheet for information only  
Prepared by:  
Wisconsin Department of Natural Resources  
Box 7921  
Madison, WI 53707-7921

## REVIEWING THE MDV

- In order to comply with federal requirements, DNR must triennially review new information to determine if revisions are needed to the MDV including the substantial and widespread socioeconomic determination.
- DNR will also review facility-specific applications of the MDV upon permit reissuance to re-evaluate the need for the variance and update permit terms and conditions associated with s. 283.16, Wis. Stat. and the EPA-approved MDV.
- DNR may request EPA approval of revised phosphorus MDV packages in the future based on new information gathered from these analyses. This may extend the duration of the MDV.

## FOR MORE INFORMATION

- Visit the DNR website: <http://dnr.wi.gov/>, search "phosphorus"
- Send comments or questions to [DNRphosphorus@wisconsin.gov](mailto:DNRphosphorus@wisconsin.gov)





## WHAT INFORMATION DO I NEED FOR A PERPETUAL EASEMENT?

If you are planning on enrolling land into a perpetual conservation easement you need to provide some important information. Perpetual easements require a title search which the landowner must obtain and applicants must supply a copy of the last property tax bill. Also, be prepared to have ALL owners of the property sign the easement document along with signatures of mortgage holders or lenders. Costs of establishing the easement, such as the title search, are reimbursed to the landowner for all perpetual easements after they have been recorded.

## ELIGIBLE PRACTICES:

- Filter Strips (CP21)
- Riparian Buffers (CP22)
- Grassed Waterways (CP8a), up to 1000 feet
- Wetland Restorations (CP23 or CP23a)
- Marginal Pastureland Wildlife Habitat Buffer (CP29)
- Permanent Introduced Grasses (CP1)\*
- Permanent Native Grasses (CP2)\*
- Established Legumes and Grasses (CP10)\*
- Oak Savanna Ecosystem Restoration and Tall Grass Prairie Ecosystem Restoration (CP25)\*

\* Practices only eligible within the grassland project areas.

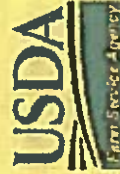
## MORE INFORMATION ONLINE AT:

[https://datcp.wi.gov/Pages/Programs\\_Services/CREP.aspx](https://datcp.wi.gov/Pages/Programs_Services/CREP.aspx)

# Wisconsin Conservation Reserve Enhancement Program



## Partner Agencies:



## Fact Sheet

Revised 03/2017



## WHAT IS THE CONSERVATION RESERVE ENHANCEMENT PROGRAM?

The Conservation Reserve Enhancement Program (CREP) is a resource for agricultural landowners to use to help meet their conservation goals, particularly those who currently till or graze land along rivers, stream, lakes and wetlands.

CREP pays landowners to voluntarily install filter strips along waterways or to return continually flooded fields to wetlands while leaving the remainder of the adjacent land in agricultural production. The size of land put into CREP is variable and can be a strip as narrow as 30 feet with no minimum acreage size. This allows landowners to put what land is needed into the program and leave the remainder for farming. Options for enrollment are through either a 15 year agreement or a perpetual easement.

There is no waiting period; enrollment and eligibility determinations are made on a first-come basis.

CREP is a joint effort between Federal, State, and County governments to complement working agriculture and the protection of Wisconsin's soils and water resources.

## HOW DOES CREP BENEFIT ME?

**Annual Payments** - On the federal side, USDA makes rental payments annually for 15 years. Rates are determined by soil type, county, and whether the land was cropland or marginal pasture land. Annual rental rates for cropland range from \$50-\$250 per acre. USDA also provides an additional annual federal incentive payment of 35%-60% the annual rental rate, depending on the practices installed.

**Up-front Payments** - In addition to annual payments, the federal government pays \$100 per acre as an up-front, one-time signing incentive payment (SIP) for filter strips, riparian buffers, grassed waterways and wetland restorations enrolled for the first time.

The State of Wisconsin also provides an additional one time up-front incentive payment of 1.5 times the annual rental rate for 15-year agreements and 12 times the annual rental rate for perpetual conservation easements.

**Practice Payments** - The federal government pays 50% of the cost of installing the eligible practices along with a practice incentive payment (PIP) of 40% of practice installation costs. Additionally, the state pays 20% of the cost of installing eligible practices.

**Note:** Check with your tax advisor to determine if these payments have tax consequences for you.

## IS MY LAND ELIGIBLE?

If your land falls within the designated towns on the CREP project area map (see back page), your land has a crop history (in commodity crops 4 out of 6 years from 2008 to 2013, or meets rotation requirements with grass or legumes), or the land meets the qualifications as marginal pastureland, you may be eligible and should fill out an application.

In the riparian project areas, eligible lands are within 150 feet of a stream or water body. In the grassland project area, additional lands are eligible that meet the crop history and are within 1000 feet of a water body. In the southern grassland project area the land must also be highly erodible. In the northern grassland project area the land does not have to be highly erodible.

Lands expiring from a Conservation Reserve Program (CRP) contract, or in the last year of their CRP contract, may be eligible for enrolling qualifying acres into CREP.

## WHAT ABOUT PUBLIC ACCESS?

Public access is not required for CREP.

## HOW DO I SIGN UP?

Contact your county FSA, NRCS or LCD office and ask them for a CREP application. A site visit will be completed and FSA will notify you if your land is eligible for CREP. Make sure you indicate which lands you wish to enroll and what type of practices or project you would like to undertake.

## WHAT IS A 15-YEAR AGREEMENT?

The 15-Year agreement is a contract to install and maintain practices for 15 years in exchange for federal and state incentive payments and cost-sharing. The landowner enjoys recreational use of the land during the contract period. The restrictions on land use are specified in the agreement and state that the land must be maintained in the vegetation type indicated in the conservation plan. If you sell the property, the state may require a transfer of the agreement to a new owner. Repayment of state program funds may be required if the agreement is violated.

## WHAT IS A PERPETUAL EASEMENT?

The perpetual conservation easement is a permanent land use restriction which will be held by the county or the state, with an underlying 15-year federal contract. The landowner enjoys recreational use of the land in perpetuity. The restrictions on land use are specified in the easement and generally state that the land must be maintained in the vegetation type indicated in the conservation plan. No structures may be built on the lands enrolled.

Through a conservation plan the landowner may indicate what types of uses they desire to have after the federal 15-year contract expires. Some of these uses may include: timber harvest, limited pasturing or haying, prescribed burns or other management techniques.

Repayment of state program funds are required if the easement is violated.